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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 EDWARD L. GOODRIDGE SR.,

13 Defendant,

14 and

15 STILLAGUAMISH TRIBE OF  
16 INDIANS,

17 Garnishee.  
18

Case No. MC 12-0080-JLR-JPD

REPORT AND RECOMMENDATION

19 On April 25, 2012, Plaintiff filed an Application for Writ of Garnishment against the  
20 Defendant. Dkt. 1. Stillaguamish Tribe, the Garnishee, has control, custody, and possession  
21 of Quarterly Per Capita Distributions belonging to Defendant. Dkt. 6. This matter was  
22 referred to the Court by the Honorable James L. Robart upon Defendant's filing of a Claim for  
23 Exemption. Dkt. 8. Having reviewed Defendant's claim and the balance of the record, the  
24 Court recommends as follows:

25 Defendant's Claim for Exemption, Dkt. 8, should be denied. Defendant rests his claim  
26 upon the Consumer Credit Protection Act ("CCPA"), 15 U.S.C. § 1673. The CCPA imposes a

1 maximum garnishment of 25% of an individual's disposable weekly earnings. 15 U.S.C. §  
2 1673(a)(1). The CCPA defines earnings as "compensation paid or payable for personal  
3 services." 15 U.S.C. § 1672(a).

4 Defendant receives the Per Capita Distribution Payments from Garnishee because he is  
5 a member of the Stillaguamish Tribe. Dkt. 11, Att.1. The Stillaguamish Tribe provides  
6 quarterly distributions to tribal members from revenue generated by the Angel of the Winds  
7 Casino. Dkt. 11. These payments are made in accordance with the Indian Gaming Revenue  
8 Plan. *Id.* The Per Capita Distributions that Defendant receives from Garnishee are not  
9 earnings as contemplated by the CCPA. Defendant failed to demonstrate that he is either  
10 employed by the Stillaguamish Tribe, or that he provides the Stillaguamish Tribe with  
11 compensable services. *See Kokoszka v. Belford*, 417 U.S. 642, 651, 94 S. Ct. 2431, 41 L. Ed.  
12 2d 374 (1974) (finding that the term "earnings" as used in the CCPA is "limited to periodic  
13 payments of compensation") (internal quotations and citation omitted); *see also Usery v. First*  
14 *Nat'l Bank of Arizona*, 586 F.2d 107, 110 (9th Cir. 1978) (stating that the application of the  
15 CCPA garnishment cap is limited to payments by "employers (or those who stand in the  
16 position of employers by virtue of paying or owing compensation for services to the individual  
17 debtor").

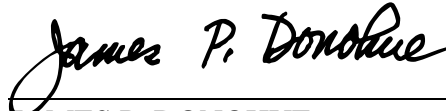
18 Defendant alternatively argues that the court-ordered payment plan imposes a  
19 maximum garnishment of 10% of his monthly income. Dkt. 10. The Judgment issued against  
20 Defendant, however, listed the minimum amount of monthly income to be collected: no less  
21 than 25% while incarcerated; and no less than 10% during supervised release. *United States v.*  
22 *Goodridge et al.*, Case No. CR08-0363JLR-001 (W.D. Wash.), Dkt. 51 at 7. Now that  
23 Defendant's supervised release has terminated, the payment plan under the Judgment has also  
24 terminated, leaving the United States Attorney's Office responsible for the collection of the  
25 debt. Dkt. 12 at 5. The order of restitution imposed upon Defendant created a lien in favor of  
26 the United States on all of Defendant's property and rights to property. 18 U.S.C. § 3613(c).

1 The lien acts as a liability for a tax assessed under the Internal Revenue Code of 1986. *Id.* The  
2 Internal Revenue Code of 1986 lists limited property exemptions, none of which apply to  
3 Defendant. 26 U.S.C. § 6334(a).

4 Moreover, the CCPA garnishment cap does not extend to state or federal tax debts. 15  
5 U.S.C. § 1673(b)(1). Defendant owes restitution to the state of Washington for both the loss of  
6 state tax revenue and failure to pay an excise tax. *United States v. Goodridge et al.*, Case No.  
7 CR08-0363JLR-001 (W.D. Wash.), Dkt. 51 at 5.

8 For these reasons, the Court recommends that Defendant's claim for exemption be  
9 denied. A proposed order accompanies this Report and Recommendation.

10 DATED this 6th day of July, 2012.

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13 JAMES P. DONOHUE  
14 United States Magistrate Judge  
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